

## Department of Defense

## 225.7103-3

### 225.7017-4 Solicitation provision.

Unless foreign participation is otherwise excluded, use the provision at 252.225-7018, Notice of Prohibition of Certain Contracts With Foreign Entities for the Conduct of Ballistic Missile Defense Research, Development, Test, and Evaluation, in competitively negotiated solicitations for RDT&E in connection with the Ballistic Missile Defense Program.

[68 FR 15627, Mar. 31, 2003]

### Subpart 225.71—Other Restrictions on Foreign Acquisition

SOURCE: 68 FR 15631, Mar. 31, 2003, unless otherwise noted.

#### 225.7100 Scope of subpart.

This subpart contains foreign product restrictions that are based on policies designed to protect the defense industrial base.

#### 225.7101 Definitions.

*Domestic manufacture* is defined in the clause at 252.225-7025, Restriction on Acquisition of Forgings.

#### 225.7102 Forgings.

##### 225.7102-1 Policy.

When acquiring the following forging items, whether as end items or components, acquire items that are of domestic manufacture to the maximum extent practicable:

Items	Categories
Ship propulsion shafts .....	Excludes service and landing craft shafts.
Periscope tubes .....	All.
Ring forgings for bull gears ...	All greater than 120 inches in diameter.

##### 225.7102-2 Exceptions.

The policy in 225.7102-1 does not apply to acquisitions—

(a) Using simplified acquisition procedures, unless the restricted item is the end item being purchased;

(b) Overseas for overseas use; or

(c) When the quantity acquired exceeds the amount needed to maintain the U.S. defense mobilization base (provided the excess quantity is an economical purchase quantity). The re-

quirement for domestic manufacture does not apply to the quantity above that required to maintain the base, in which case, qualifying country sources may compete.

##### 225.7102-3 Waiver.

Upon request from a contractor, the contracting officer may waive the requirement for domestic manufacture of the items listed in 225.7102-1.

##### 225.7102-4 Contract clause.

Use the clause at 252.225-7025, Restriction on Acquisition of Forgings, in solicitations and contracts, unless—

(a) The supplies being acquired do not contain any of the items listed in 225.7102-1; or

(b) An exception in 225.7102-2 applies. If an exception applies to only a portion of the acquisition, specify the excepted portion in the solicitation and contract.

#### 225.7103 Polyacrylonitrile (PAN) carbon fiber.

##### 225.7103-1 Policy.

DoD has imposed restrictions on the acquisition of PAN carbon fiber from foreign sources. DoD is phasing out the restrictions over the period ending May 31, 2006. Contractors with contracts that contain the clause at 252.225-7022 shall use U.S. or Canadian manufacturers or producers for all PAN carbon fiber requirements.

[68 FR 15631, Mar. 31, 2003, as amended at 70 FR 6374, Feb. 7, 2005]

##### 225.7103-2 Waivers.

With the approval of the chief of the contracting office, the contracting officer may waive, in whole or in part, the requirement of the clause at 252.225-7022. For example, a waiver may be justified if a qualified U.S. or Canadian source cannot meet scheduling requirements.

##### 225.7103-3 Contract clause.

Use the clause at 252.225-7022, Restriction on Acquisition of Polyacrylonitrile (PAN) Carbon Fiber, in solicitations and contracts for major systems issued on or before May 31,

## **225.7201**

2006, if the system is not yet in development and demonstration (milestone B as defined in DoDI 5000.2).

[70 FR 8537, Feb. 22, 2005]

### **Subpart 225.72—Reporting Contract Performance Outside the United States**

SOURCE: 70 FR 20839, Apr. 22, 2005, unless otherwise noted.

#### **225.7201 Policy.**

(a) 10 U.S.C. 2410g requires offerors and contractors to notify DoD of any intention to perform a DoD contract outside the United States and Canada when the contract could be performed inside the United States or Canada.

(b) DoD requires contractors to report the volume, type, and nature of contract performance outside the United States.

#### **225.7202 Exception.**

This subpart does not apply to contracts for commercial items, construction, ores, natural gas, utilities, petroleum products and crudes, timber (logs), or subsistence.

#### **225.7203 Contracting officer distribution of reports.**

Follow the procedures at PGI 225.7203 for distribution of reports submitted with offers in accordance with the provision at 252.225-7003, Report of Intended Performance Outside the United States and Canada—Submission with Offer.

#### **225.7204 Solicitation provision and contract clauses.**

Except for acquisitions described in 225.7202—

(a) Use the provision at 252.225-7003, Report of Intended Performance Outside the United States and Canada—Submission with Offer, in solicitations with a value exceeding \$10 million;

(b) Use the clause at 252.225-7004, Report of Intended Performance Outside the United States and Canada—Submission after Award, in solicitations and contracts with a value exceeding \$10 million; and

(c) Use the clause at 252.225-7006, Quarterly Reporting of Actual Con-

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tract Performance Outside the United States, in solicitations and contracts with a value exceeding \$500,000.

### **Subpart 225.73—Acquisitions for Foreign Military Sales**

#### **225.7300 Scope of subpart.**

(a) This subpart contains policies and procedures for acquisitions for foreign military sales (FMS) under the Arms Export Control Act (22 U.S.C. Chapter 39). Section 22 of the Arms Export Control Act (22 U.S.C. 2762) authorizes DoD to enter into contracts for resale to foreign countries or international organizations.

(b) This subpart does not apply to—

(1) FMS made from inventories or stocks;

(2) Acquisitions for replenishment of inventories or stocks; or

(3) Acquisitions made under DoD cooperative logistic supply support arrangements.

[63 FR 43889, Aug. 17, 1998]

#### **225.7301 General.**

(a) The U.S. Government sells defense articles and services to foreign governments or international organizations through FMS agreements. The agreement is documented in a Letter of Offer and Acceptance (LOA) (see DoD 5105.38-M, Security Assistance Management Manual). The LOA—

(1) Lists the items and services, estimated costs, and terms and conditions of the sale;

(2) Is presented to the foreign customer; and

(3) Provides for signature of the foreign customer to indicate acceptance.

(b) Conduct FMS acquisitions under the same acquisition and contract management procedures used for other defense acquisitions.

(c) Separately identify known FMS requirements and the FMS customer in solicitations.

(d) Clearly identify contracts for known FMS requirements by marking “FMS requirement” on the face of the contract along with the FMS customer and the case identifier code.

(e) See 229.170 for policy on contracts financed under U.S. assistance programs that involve payment of foreign